



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/537,586

Docket No.: MOL0673/IR7669

Applicant: de Nora et al

Examiner: TBD

Filing date: 6/6/2005

Int'l App.: PCT/IB04/00431

PETITION UNDER 37 CFR 1.182 OR 1.183

In response to the Notice of Abandonment dated November 1, 2010 under 37 CFR 1.53(f) or (g) (hereinafter referred to as "Notice"), Applicants hereby petition under 37 CFR 1.182 or 1.183 for a holding that the Notice was void *ab-initio* as being based on a defective Notification of Missing Requirements dated March 4, 2008 (hereinafter "Notification") which itself was void *ab-initio*. The fee required for such a petition of \$400 under 37 CFR 1.17(f) is included herewith as a check.

The Notification is based on a determination that the Applicants (it is noted that the PTO has Nguyen as the first named inventor when in fact de Nora is the first named inventor) did not submit an Oath or Declaration by the inventors. The Notice is further based on the fact that the Applicants did not respond to the Notification. If the Notification is determined to be defective and hence void *ab-initio* so would the Notice be defective and void *ab-initio* and the application can then proceed to examination.

Under 1.183 Applicants must show that the situation is "extraordinary". An incorrect determination by the USPTO resulting in abandonment surely qualifies as extraordinary. Here as seen from the USPTO "Public Pair", Applicants did in fact file the Request which contained the Declaration signed by all 3 inventors (filed as "Documents submitted with 371 applications", copy attached). A copy of the Postcard mailed to the USPTO shows the same (attached). The Transmittal Letter (copy attached) received per "Public Pair" reflects the same (both the attachment of a Declaration and the inclusion of a postcard). Thus, it can be concluded that the Applicants did in fact file an appropriate Declaration along with the other documents which are acknowledged by the USPTO. Therefore, the determination in the Notification was defective and hence it was void *ab-initio*. If so, there was nothing for the Applicants to respond to and hence the

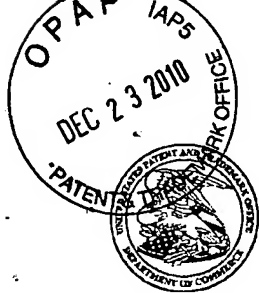
Notice is also void *ab-initio*. The contrary holding of abandonment is clearly extraordinary.

Clearly, given the facts above, "justice requires" waiver of the rules at issue here. Therefore, Applicants respectfully petition the USPTO to withdraw the Notice and pass the application to examination.

Respectfully submitted

A handwritten signature in black ink, appearing to be 'JD' with a flourish, positioned above a horizontal line.

Jayadeep R Deshmukh
Reg. No. 34,507
458 Cherry Hill Road
Princeton, NJ 08540
Tel No.: 6098651856



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/537,586		Thinh T Nguyen	MOL0673

CONFIRMATION NO. 3564

J Deshmukh
458 Cherry Hill Rd
Princeton, NJ 08540-7616

ABANDONMENT/TERMINATION
LETTER



Date Mailed: 11/01/2010

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/04/2008.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized, date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or
3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OPAP.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

/ddwilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

PCT REQUEST

Original (for SUBMISSION)

0	For receiving Office use only	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	Form - PCT/RO/101 PCT Request	
0-4-1	Prepared Using	PCT-SAFE [EASY mode] Version 3.50 (Build 0002.150)
0-5	Petition The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	Receiving Office (specified by the applicant)	International Bureau of the World Intellectual Property Organization (RO/IB)
0-7	Applicant's or agent's file reference	MOL0673-PCT
I	Title of invention	ALUMINIUM ELECTROWINNING CELLS WITH METAL-BASED ANODES
II	Applicant	
II-1	This person is:	applicant only
II-2	Applicant for	all designated States except US
II-4	Name:	MOLTECH INVENT S.A.
II-5	Address:	6, rue Adolphe Fischer 1520 LUXEMBOURG Luxembourg
II-6	State of nationality	LU
II-7	State of residence	LU
III-1	Applicant and/or inventor	
III-1-1	This person is:	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	DE NORA, Vittoria
III-1-5	Address:	Sandriham House none NASSAU Bahamas
III-1-6	State of nationality	IT
III-1-7	State of residence	BS

PCT REQUEST

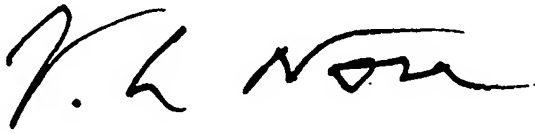
Original (for SUBMISSION)

III-2	Applicant and/or inventor	
III-2-1	This person is:	applicant and inventor
III-2-2	Applicant for	US only
III-2-4	Name (LAST, First)	NGUYEN, Thinh T.
III-2-5	Address:	Rte du Grand-Lancy 165b 1213 ONEX Switzerland
III-2-6	State of nationality	CH
III-2-7	State of residence	CH
III-3	Applicant and/or inventor	
III-3-1	This person is:	applicant and inventor
III-3-2	Applicant for	US only
III-3-4	Name (LAST, First)	DURUZ, Jean-Jacques
III-3-5	Address:	Rue de Hesse 4 1204 GENEVA Switzerland
III-3-6	State of nationality	CH
III-3-7	State of residence	CH
IV-1	Agent or common representative; or address for correspondence	
	The person identified below is hereby/ has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	agent
IV-1-1	Name (LAST, First)	CRONIN, Brian
IV-1-2	Address:	c/o MOLTECH S.A. Quai du Mont-Blanc 21 1201 GENEVA Switzerland
IV-1-3	Telephone No.	+41 22 593 88 88
IV-1-4	Facsimile No.	41 22 593 88 99
IV-1-5	e-mail	ip@moltech.ch
IV-1-6	Agent's registration No.	21880
V	DESIGNATIONS	
V-1	The filing of this request constitutes under Rule 4.9(a), the designation of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents.	

PCT REQUESTOriginal (for **SUBMISSION**)

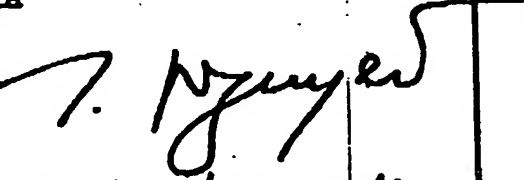

VI-1	Priority claim of earlier International application		
VI-1-1	Filing date	20 February 2003 (20.02.2003)	
VI-1-2	Number	PCT/IB03/00662	
VI-1-3	PCT receiving Office	IB	
VI-2	Priority document request The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-1	
VII-1	International Searching Authority Chosen	European Patent Office (EPO) (ISA/EP)	
VIII	Declarations	Number of declarations	
VIII-1	Declaration as to the identity of the inventor	-	
VIII-2	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	-	
VIII-3	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	-	
VIII-4	Declaration of inventorship (only for the purposes of the designation of the United States of America)	1	
VIII-5	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	-	

VIII-4-1	<p>Declaration: Inventorship (only for the purposes of the designation of the United States of America) Declaration of Inventorship (Rules 4.17(iv) and 51bis.1(a)(iv)) for the purposes of the designation of the United States of America:</p>	<p>I hereby declare that I believe I am the original, first and sole (if only one inventor is listed below) or joint (if more than one inventor is listed below) inventor of the subject matter which is claimed and for which a patent is sought.</p> <p>This declaration is directed to the international application of which it forms a part (if filing declaration with application).</p> <p>I hereby declare that my residence, mailing address, and citizenship are as stated next to my name.</p> <p>I hereby state that I have reviewed and understand the contents of the above-identified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications", by application number, country or Member of the World Trade Organization, day, month, and year of filing, any application for a patent or inventor's certificate filed in a country other than the United States of America, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed.</p>
VIII-4-1-1	Prior applications:	


		<p>I hereby acknowledge the duty to disclose information that is known by me to be material to patentability as defined by 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>
VIII- 4-1-1-1	Name (LAST, First)	DE NORA, Vittorio
VIII- 4-1-1-2	Residence: (city and either US State, if applicable, or country)	NASSAU, Bahamas
VIII- 4-1-1-3	Mailing address:	Sandrigham House none NASSAU Bahamas NASSAU Bahamas
VIII- 4-1-1-4	Citizenship:	IT
VIII- 4-1-1-5	Inventor's Signature: (if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)	
VIII- 4-1-1-6	Date: (of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)	18-02-04

PCT REQUEST

Original (for SUBMISSION)

VIII- 4-1-2-1	Name (LAST, First)	NGUYEN, Thinh T.
VIII- 4-1-2-2	Residence: (city and either US State, if applicable, or country)	ONEX, Switzerland
VIII- 4-1-2-3	Mailing address:	Rte du Grand-Lancy 165b CH-1213 ONEX Switzerland ONEX Switzerland
VIII- 4-1-2-4	Citizenship:	CH
VIII- 4-1-2-5	Inventor's Signature: (if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)	
VIII- 4-1-2-6	Date (of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)	18/02/2004
VIII- 4-1-3-1	Name (LAST, First)	DURUZ, Jean-Jacques
VIII- 4-1-3-2	Residence: (city and either US State, if applicable, or country)	GENEVA, Switzerland
VIII- 4-1-3-3	Mailing address:	Rue de Hesse 4 CH-1204 GENEVA Switzerland GENEVA Switzerland
VIII- 4-1-3-4	Citizenship:	CH
VIII- 4-1-3-5	Inventor's Signature: (if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)	
VIII- 4-1-3-6	Date (of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)	10 February 2004

Original (for SUBMISSION)

IX	Check list	number of sheets	electronic file(s) attached
IX-1	Request (including declaration sheets)	10	-
IX-2	Description	25	-
IX-3	Claims	5	-
IX-4	Abstract	1	✓
IX-5	Drawings	3	-
IX-7	TOTAL	44	
	Accompanying items	paper document(s) attached	electronic file(s) attached
IX-8	Fee calculation sheet	✓	-
IX-11	Copy of general power of attorney	reference no. 94/0004	-
IX-11	Copy of general power of attorney	reference no. 94/0026	-
IX-11	Copy of general power of attorney	reference no. 00/0350	-
IX-11	Copy of general power of attorney	reference no. 95/0067	-
IX-17	PCT-SAFE physical media	-	✓
IX-19	Figure of the drawings which should accompany the abstract	1	
IX-20	Language of filing of the International application	English	
X-1	Signature of applicant, agent or common representative		
X-1-1	Name:	CRONIN, Brian	
X-1-2	Name of signatory		
X-1-3	Capacity		

For: Aluminium electrodeposits

Inventor: Nora et al.

Ser No: TBD - US National

Stage of M0673

Encl: Transmittal letter;

prelim. and.; PCT

Request including declaration
by inventors


Date: 6/6/05

M0673

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER M0673
INTERNATIONAL APPLICATION NO. PCT/IB2004/000431		U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL FILING DATE 2/13/04	PRIORITY DATE CLAIMED 2/20/03	
TITLE OF INVENTION Aluminium electrowinning cells with metal-based anode		
APPLICANT(S) FOR DO/EO/US de Nora, Nguyen, Duru		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. 4. <input checked="" type="checkbox"/> The US has been elected (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input checked="" type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). <p>Items 11 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input checked="" type="checkbox"/> A preliminary amendment. 14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76. 15. <input type="checkbox"/> A substitute specification. 16. <input type="checkbox"/> A power of attorney and/or change of address letter. 17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825. 18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4). 19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 20. <input checked="" type="checkbox"/> Other items or information: postcard 		

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/IB2004/000431		ATTORNEY'S DOCKET NUMBER MOL0673	
The following fees have been submitted				CALCULATIONS	PTO USE ONLY
21. <input checked="" type="checkbox"/> Basic national fee \$300				\$ 300	
22. <input checked="" type="checkbox"/> Examination fee If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4) .. \$100 All other situations .. \$200				\$ 200	
23. <input checked="" type="checkbox"/> Search fee Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority .. \$100 International Search Report prepared and provided to the Office .. \$400 All other situations .. \$500				\$ 400	
TOTAL OF 21, 22 and 23 =				\$ 900	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
- 100 =	/50 =		x \$250	\$ -	
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(h)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total claims	28 - 20 =	8	x \$ 50	\$ 400	
Independent claims	3 - 3 =	-	x \$200	\$ -	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360	\$ -	
TOTAL OF ABOVE CALCULATIONS =				\$ 1300	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.					
SUBTOTAL =				\$	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	
TOTAL NATIONAL FEE =				\$ 1300	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$ 1300	
				Amount to be refunded:	\$
				Amount to be charged:	\$
<p>a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed.</p> <p>b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. 50-0912 in the amount of \$ 1300 to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. _____. A duplicate copy of this sheet is enclosed.</p> <p>d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p> <p>SEND ALL CORRESPONDENCE TO:</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>J. Deshmukh 458 Cherry Hill Rd. Princeton, NJ 08540-7616</p> </div> <div style="text-align: right; margin-top: 20px;"> <p> SIGNATURE Jayadeep R Deshmukh NAME 34507 REGISTRATION NUMBER</p> </div>					